

Request for Reconsideration After Final Action
U.S. Patent Application No. 10/691,663

REMARKS

Claims 1, 3, 4, 6-12, 14-18, and 20-25 are pending in the subject application, and these claims have been examined and stand rejected. No claims have been amended. Favorable reconsideration of the application and allowance of all of the pending claims are respectfully requested in view of the following remarks.

In the final Office Action, the Examiner substantially maintains the same rejections to the claims as in the previous Office Action. In particular, claims 1, 3, 10-12, 14-17, and 25-25 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,705,950 to Wood et al. ("*Wood*"), while claims 4-8 and 18-22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Wood* in view of U.S. Patent No. 5,820,060 to Yano ("*Yano*"). These rejections are respectfully traversed based upon the same remarks set forth in the previous Amendment filed July 7, 2006 (which are also incorporated herein by reference) and also the following remarks set forth in numbered fashion. **The Examiner is respectfully requested to clearly and completely address each of the numbered points set forth below in the Examiner's next response.**

1. **The Examiner has failed to adequately address all of the limitations of claim 25 in the final Office Action, and the rejection of this claim as being anticipated by *Wood* is improper and should be withdrawn**

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Section 707.07 of the MPEP (which quotes 37 C.F.R. §1.104), clearly states that an examiner's action will be complete as to all matters. This includes sufficiently addressing each and every claim that is being examined in the application.

As set forth in MPEP §2131, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Thus, if an Examiner rejects a claim as being anticipated by a reference under any sub-section of 35 U.S.C. §102, the Examiner must set forth how the reference teaches each and every limitation in that claim. It is respectfully submitted that the Examiner has failed to adequately address all of the limitations of claim 25 in rejecting this claim as being anticipated by *Wood*.

Independent claim 25 recites an oscillating product that includes a portion for receiving a person and further includes an entertainment device, where the entertainment device comprises a mobile arm rotatably coupled to the entertainment device, a motion conversion device coupled to the entertainment device and the mobile arm to convert an oscillatory motion of the entertainment device into a rotational motion of the mobile arm such that the mobile arm rotates around at least a portion of the entertainment device, and a mounting member to secure the entertainment device to the oscillating product. Claim 25 further recites that, upon securing the mounting member to the oscillating product, the oscillating product conveys the oscillatory motion to the entertainment device.

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As noted in the previous Amendment filed July 7, 2006, *Wood* fails to anticipate or render obvious (e.g., in combination with *Yano*) the combined features of claim 25, with particular regard to the feature of a motion conversion device coupled to an entertainment device and a mobile arm to convert an oscillatory motion of the entertainment device into a rotational motion of the mobile arm such that the mobile arm rotates around at least a portion of the entertainment device. While the hanger 36 (which supports decorative objects 38) of *Wood* rotates with respect to the support member 32, this hanger 36 hangs freely from an end of and thus does not rotate around any portion of the support member 32 (or any other portion of the object hanger device 30 for that matter).

In the final Office Action, the Examiner rejects claim 25 as being anticipated by *Wood* (see pages 2-3 of the final Office Action). However, the Examiner fails to provide any indication whatsoever as to how *Wood* teaches the feature of a mobile arm rotating around at least a portion of the entertainment device as recited in claim 25. The Examiner further fails to address Applicants' arguments regarding this deficiency in *Wood*.

Since the Examiner has failed to provide any explanation as to how *Wood* teaches each and every feature of claim 25, the Examiner's rejection with respect to at least this claim is clearly deficient. Accordingly, the Examiner must either withdraw the rejection of claim 25 as being anticipated by *Wood* or provide a further Office Action which adequately and sufficiently addresses how *Wood* teaches each and every feature recited in this claim.

2. The Examiner has failed to adequately respond to Applicants' previous arguments regarding the patentability of the claims over Wood in view of Yano

As noted above, MPEP §707.07 sets forth that an examiner's action must be complete with respect to all matters. Accordingly, if an Examiner maintains a rejection of the claims, the Examiner must at the very least be fully responsive in addressing all of the arguments set forth by the Applicant. In the final Office Action, the Examiner has failed to provide an adequate response to the arguments by Applicants with respect to the patentability of the claims over any combination of *Wood* with *Yano*.

In the Amendment filed July 7, 2006, a number of arguments were presented regarding the inappropriate combination of *Wood* with *Yano* to reject certain claims. Applicants initially noted that *Wood* and *Yano* are completely non-analogous with respect to each other, since the two references are in different fields of endeavor and the function and design of the gearing mechanism for the seat belt retractor of *Yano* is not remotely pertinent to the non-motorized rotary mechanism for the object hanger of *Wood*. Thus, Applicants previously argued that it is improper for the Examiner to combine these two reference in an attempt to assert any of the pending claims are obvious under 35 U.S.C. §103(a).

Applicants further argued that it is not at all clear how the object hanger device **30** of *Wood* could be easily or readily modified to include a gearing mechanism as taught in *Yano*. The non-motorized structure **70** of *Wood*, which includes a ball **60** and socket **46** arrangement for connecting hanger **36** to support member **32**, controls rotation of the hanger **36** during motion of

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the swing 10. This non-motorized structure 70 of *Wood* simply cannot be easily modified to include the complex gearing mechanism of *Yano* without significant alteration of such non-motorized structure and/or other elements of the object hanger device 30. Further, it is not even clear whether the gearing mechanism of *Yano* is even capable of providing the same functional features as the non-motorized structure 70 for the object hanger 30 of *Wood*, where motion of the swing imparts motion of the support member 32 and decorative object(s) 38, since the gearing mechanism of *Yano* is designed for a distinctly different purpose.

Finally, Applicants argued that the Examiner's motivational reasoning for combining *Wood* and *Yano* is flawed. In particular, Applicants requested a response from the Examiner as to **why one skilled in the art would look to *Yano* to "permit rotational motion of an element", when the elements of *Wood* are already rotating?** As previously stated, the combination of *Wood* and *Yano* is based solely upon improper hindsight by the Examiner.

In response to all of these arguments previously submitted by Applicants, the Examiner provides a single paragraph statement (see page 4 of the final Office Action) responding only to Applicants' argument that *Wood* and *Yano* are non-analogous art with respect to each other. Yet, the Office Action is completely silent with respect to the other arguments raised by Applicants.

In other words, the Examiner has provided no rationale in response to Applicants' arguments as to how the gearing mechanism of *Yano* could be integrated into the rotational mechanism of *Wood* in an effective manner without completely modifying or destroying the functional design and intended purpose of the device taught by *Wood*.

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The Examiner further maintains the same motivation for combining *Wood* with *Yano* in the final Office Action (i.e., “*such a modification would permit rotational motion of an element*”, see page 4 of the final Office Action). Yet the Examiner fails to provide any response to the question posed by Applicants as to why one skilled in the art would have looked to *Yano* in the first place, given that ***Wood already teaches a rotational mechanism for the mobile arm.*** Since the Examiner has failed to fully and adequately respond to Applicants’ arguments, the Examiner should either withdraw the rejections of the claims based upon *Wood* in view of *Yano* or, alternatively, provide a further Office Action that is complete and is fully responsive to all of the substantive arguments raised by Applicants as to the improper combination of these references to reject the claims.

3. The rejection of independent claims 1 and 15 being anticipated by *Wood* is improper and should be withdrawn

Independent claim 1 recites an oscillating product that includes a portion for receiving a person and further includes an entertainment device, where the entertainment device comprises a mobile arm rotatably coupled to the entertainment device, a motion conversion device including a weighted housing coupled to the entertainment device and the mobile arm to convert an oscillatory motion of the entertainment device into a rotational motion of the mobile arm, where the weighted housing rotates in response to oscillatory motion of the entertainment device such that rotational motion of the housing effects rotational motion of the mobile arm, and a mounting member to secure the entertainment device to the oscillating product. Claim 1 further recites

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that, upon securing the mounting member to the oscillating product, the oscillating product conveys oscillatory motion to the entertainment device.

Independent claim 15 recites a method of rotating a mobile arm rotatably coupled to an entertainment device, comprising the following steps: imparting oscillatory movement to the entertainment device; providing a motion conversion device including a weighted housing that is coupled to the entertainment device and the mobile arm, where the weighted housing rotates in response to the oscillatory motion of the entertainment device and the rotational motion of the weighted housing effects rotational motion of the mobile arm; and providing a mounting member to facilitate mounting of the entertainment device to an oscillating product, wherein the oscillating product includes a portion for receiving a person.

Wood fails to disclose or render obvious the combined features of each of claims 1 and 15, with particular regard to the recitation of a motion conversion device including a weighted housing that rotates in response to oscillatory motion of the entertainment device and where the rotational motion of the housing effects rotational motion of the mobile arm.

As noted in the previous Amendment filed July 7, 2006, *Wood* describes a non-motorized object hanger device **30** for use with a child swing **10** (see, e.g., Figs. 1-4 of *Wood*). A hanger **36** is coupled to a support member **32** of the device **30**, where at least one decorative object **38** is coupled to the hanger **32**. Motion is imparted to the support member **32** by motion of the swing, and such motion in turn moves the decorative object(s) **38** in a pendant arc (see Col. 3, lines 24-30 of *Wood*). *Wood* further discloses a number of embodiments of non-motorized structure **70** that impart rotating motion to the hanger **36** and the decorative object(s) **38** (see the

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embodiments of Figs. 7-10, Figs. 11-12, and Figs. 13-14 of *Wood*). Each embodiment of the non-motorized structure **70** includes a ball **60** and socket **46** arrangement for connecting hanger **36** to support member **32**, where the ball and socket arrangement includes ribs, fingers and/or slots arranged on one or both of the ball and socket to control rotation of the hanger **36** during motion of the swing **10** (see Col. 4, line 17, to Col. 5, line 19 of *Wood*).

In rejecting claims 1 and 15 in the final Office Action, the Examiner construes the non-motorized structure **70** of *Wood* as the recited motion conversion device of claims 1 and 15. In addition, the Examiner now construes the ball **60** of the ball-and-socket arrangement in *Wood* (i.e., to connect hanger **36** to support member **32**) as a “weighted housing.” It is respectfully submitted that the ball **60** of *Wood* cannot reasonably be construed as a housing, let alone a weighted housing as recited in claims 1 and 15.

The plain and ordinary meaning of the word “housing”, which is a commonly used term in the English language, is an enclosed structure or receptacle that is capable of receiving something within the housing. The meaning of the term “housing” in the recited weighted housing of the pending claims does not deviate from the plain and ordinary meaning of a housing as used in the English language. This is clearly apparent from the use of this term in the claims and also when considered in view of the specification.

However, there is no indication whatsoever that the ball **60** in *Wood* serves as (or is capable of serving as) a housing or receptacle for anything. Rather, the ball **60** of *Wood* appears to be a solid spherical structure for securing into the socket **46** of the support member **32** to yield a ball-and-socket connection. Therefore, the interpretation of the ball **60** of *Wood* as being a

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weighted housing in the manner asserted by the Examiner in an attempt to reject the claims is unreasonable and improper.

Accordingly, Applicants again submit that the rejection of claims 1 and 15 based upon *Wood* should be withdrawn, and that no combination of *Wood* with *Yano* renders obvious the combined features of these claims. The Examiner is therefore requested to withdraw the rejection of claims 1 and 15 and to allow these claims.

Claims 3, 4, 6-12, 14, 16-18, and 20-24 depend, either directly or indirectly, from independent claims 1 or 15. In addition, as noted above, there is no combination of *Wood* with *Yano* that renders obvious the additional features set forth in any of these claims. Accordingly, these claims should also be allowed based upon the previous remarks for their parent claims. Further, as noted above, claim 25 should also be allowed over *Wood*.

4. The final rejection mailed October 2, 2006 fails to address or improperly addresses dependent claims 5, 9, and 19.

Dependent claim 9, although listed as "rejected" on the cover sheet for the October 2, 2006 Office Action, is not specifically referenced in any of the current rejections. Additionally, dependent claims 5 and 19, which were canceled in the Response filed July 7, 2006 currently stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Wood* in view of *Yano*. Due to these inconsistencies, Applicants are unsure as to the current status of these claims. Applicants respectfully request that the Examiner provide a further Office Action that is complete and fully addresses the current status of all the claims.

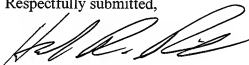
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In view of the foregoing, the Examiner is respectfully requested to find claims 1, 3, 4, 6-12, 14-18, and 20-25 to be in condition for allowance. **Alternatively, if the Examiner intends to maintain the claim rejections, it is respectfully submitted that another Office Action must be issued that is sufficient and fully responsive to each of the numbered issues set forth above.**

In addition, if for any reason the Examiner feels that the application is not now in condition for allowance, the Examiner is respectfully requested to call the undersigned attorney to discuss any unresolved issues and to expedite the disposition of the application.

Applicants hereby petition for any extension of time that may be required to maintain the pendency of this case, and any required fee for such extension is to be charged to Deposit Account No. 05-0460.

Respectfully submitted,



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